

# **The National School Lunch Program: Smart Snacks Compliance and the Updated Kentucky Regulation 702 KAR 6:090**

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# Smart Snacks: Federal Perspective



- ▶ In 2010, the Healthy Hunger-Free Kids Act included a provision (7 CFR 210.11) to regulate the sale of all foods and beverages **sold** to students during the school day other than those foods provided as part of the school meal programs.
- ▶ Examples of these food items (or competitive foods) can be:
  - a la carte items sold in the cafeteria;
  - foods sold in school stores;
  - snack bars; and
  - vending machines.

# Applicable Kentucky Law

- ▶ Prior to 2010, Kentucky also had state law (KRS 158.854 and 702 KAR 6:090) regulating the sale of competitive foods and beverages to students.
- ▶ Both the state and federal law aimed to increase the health of students, however several variations existed between the state and federal standards.
- ▶ To ease the burden on SFAs, SCN requested a waiver of a portion of 702 KAR 6:090 beginning in SY 14-15.
- ▶ In 2016, when the Smart Snacks Standard became a final rule, SCN requested a permanent amendment to the Kentucky Administrative Regulation.



# Smart Snacks and KY 702 KAR 6:090

- ▶ Effective June 2, 2017, 702 KAR 6:090 is now amended as to require the same standards for foods and beverages as the federal Smart Snacks Standards in 7 CFR 210.11.



# Overall Impact: Current Requirements

- ▶ With the amendment to 702 KAR 6:090, let's discuss the impact on the following areas:
  - When: What times during the school day do the regulations apply?
  - Who: Who is responsible for monitoring and overseeing sales of competitive food and beverage items?
  - Food and Beverage Items: What can and cannot be sold?
  - Where: What locations on the school premise are impacted by the regulations?
  - Violations: If violations occur, what is the impact?



# When: What times during the school day do the regulations apply?

- ▶ Per 702 KAR 6:090, no competitive foods or beverages can be **sold** during the school day until 30 minutes after the last lunch period.
- ▶ Per 7 CFR 210.11, the time frame where regulations dictate the sale of foods and beverages extends to 30 minutes after the end of the official school day.

## Scenario

School A's last lunch period ends at 12:30 and dismissal is at 3:00.

School A has a vending machine, the machine may be operational with approved items from 1:00 pm until 3:30 pm. After 3:30 pm, the vending machine may be operational and contain any item as chosen by school. The school may not operate the vending machine prior to 1:00.



# Who: Who is responsible for monitoring?

The responsibility for monitoring Smart Snacks is determined by “who” is selling the food item.

- ▶ If the child nutrition program is selling the food items, it is the responsibility of the child nutrition program to determine product compliance.
- ▶ If the school is selling food items, it is the responsibility of the school to determine and ensure product compliance.



# Food and Beverage Items: What Can and Can't Be Sold, Determining Product Compliance

- ▶ Due to the update of the Kentucky regulation, product compliance is simple to determine by utilizing a free, online tool: [Alliance Product Calculator](https://foodplanner.healthiergeneration.org/calculator/).
- ▶ Best Practice: Print product compliance or non-compliance with product information for recordkeeping.

The screenshot displays the 'Smart Snacks Product Calculator' interface in a web browser. The page title is 'SMART SNACKS PRODUCT CALCULATOR' and the URL is 'https://foodplanner.healthiergeneration.org/calculator/'. The page features the 'Alliance for a Healthier Generation' logo. The main heading is 'Product Information', followed by instructions: 'Take the guess work out of your day! Answer a series of questions to see if your product meets the USDA's Smart Snacks in School nutrition standards.' A note states: '\*Results from this calculator have been determined by the USDA to be accurate in assessing product compliance with the Federal requirements for Smart Snacks in Schools provided the information is not misrepresented when entered into the Calculator.' Below this, there is a section 'CHECK OUT THE BLUE INFORMATION BUBBLES' and a 'NOTE: As of July 1, 2016, %DV is no longer a requirement.' The 'My Product is a ...' section has four radio button options: a) Snack (selected), b) Side, c) Entree, and d) Beverage. The 'Brand' field is empty, and the 'Serving Size' field is set to '28.35 g'. The 'Product' and 'First Ingredient' fields are also empty. A green checkmark icon and the text 'Your product is compliant!' are displayed. Below this, a message states: 'Your fruit product meets all nutrient standards for entrees or snack foods.' At the bottom, there are two buttons: 'START OVER' and 'NEXT STEP'. The footer includes the copyright notice '© 2014 ALLIANCE FOR A HEALTHIER GENERATION', a link to 'Questions Contact us', and logos for the 'American Heart Association' and 'CLINTON FOUNDATION'.

SMART SNACKS  
PRODUCT CALCULATOR

ALLIANCE FOR A  
HEALTHIER  
GENERATION

### Product Information

Take the guess work out of your day! Answer a series of questions to see if your product meets the USDA's Smart Snacks in School nutrition standards.

\*Results from this calculator have been determined by the USDA to be accurate in assessing product compliance with the Federal requirements for Smart Snacks in Schools provided the information is not misrepresented when entered into the Calculator.

**CHECK OUT THE BLUE INFORMATION BUBBLES** please update your browser or try a different browser for additional guidance on specific products.

Enter product information as SOLD (as portioned accompaniments).

**NOTE:** As of July 1, 2016, %DV is no longer a requirement.

My Product is a ...

☒ a) Snack ⓘ

☐ b) Side ⓘ

☐ c) Entree ⓘ

☐ d) Beverage ⓘ

Brand

Serving Size

28.35 g

Product

First Ingredient

✔ Your product is compliant!

Your fruit product meets all nutrient standards for entrees or snack foods.

The person or group responsible for the point of sale to students on campus should verify a product's compliance and print their own Calculator results for documentation intended for compliance purposes. Results from this calculator have been determined by the USDA to be accurate in assessing product compliance with the Federal requirements for Smart Snacks in Schools provided the information is not misrepresented when entered into the Calculator.

START OVER

START OVER

NEXT STEP

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Questions Contact us

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# Best Practice for Responsible Monitoring

- ▶ SCN recommends schools create a district level Fundraising Request Form for school staff to utilize. The form would capture necessary information such as:
  - What time would the fundraiser take place;
  - Does the time necessitate Smart Snack compliance, if so;
  - What is the specific food item; and
  - Does it meet necessary standards?
- ▶ KDE does not allow any exemptions to fundraisers.



# Where: What locations on the school campus are impacted?

- ▶ Per 7 CFR 210.11, for the purpose of competitive food standards implementation:
  - School Campus means, all areas of the property under the jurisdiction of the school that are accessible to students during the school day.

## Scenario

- Do Smart Snack Standards apply to vending machines in the teacher's lounge?

*Generally, the answer is No, the standards do not apply because students are restricted from the area. However, if students do have access to the area, then the standards would apply.*



# Violations: If violations occur by the school, what is the impact?

- ▶ Any violation by a school of [KRS 158.854](#), is regulated by [KRS 156.160](#).
- ▶ First violation: result in a fine no less than one week's revenue from the sale of the competitive food;
- ▶ Subsequent violations: result in a fine of no less than one month's revenue from the sale of the competitive food;
- ▶ Habitual violations: result in a six month ban of competitive food sales.
- ▶ All revenue collected as a result of fines shall be transferred to the food service fund of the district.





# Violations: If violations occur by the child nutrition department, what is the impact?

- ▶ All Smart Snacks violations that occur by the Child Nutrition Department (example, the sale of a la carte items during meal service), are handled by the National School Lunch Program Administrative Review process.

# Connections:

## The Local School Wellness Policy

- ▶ All sponsors of the National School Lunch Program are required to have a district level Local School Wellness Policy.
- ▶ The Local School Wellness Policy must address the district policy of food and beverage standards for items sold to students.
- ▶ All sponsors must meet the minimum state and federal standards, but are encouraged to customize district policies through the Local Wellness Policy.
- ▶ Additional training on the Local School Wellness Policy can be found [here](#).



# Resources and Questions



Additional resources regarding Smart Snacks compliance can be found on the [SCN website](#).

For any questions or clarification, please contact the *KDE Division of School and Community Nutrition*. (502.564.5625)

We will be happy to assist you.

Thank you!